



Entered on Docket
July 18, 2008

A handwritten signature in dark ink, appearing to read "Linda B. Riegler".

Hon. Linda B. Riegler
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,
USA Capital Realty Advisors, LLC,
USA Capital Diversified Trust Deed Fund, LLC,
USA Capital First Trust Deed Fund, LLC,¹
USA Securities, LLC,²
Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR¹
Case No. BK-S-06-10729-LBR²

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

**ORDER DISALLOWING AMENDED
CLAIM NO. 791 FILED BY THE
PENSION BENEFIT GUARANTY
CORPORATION**

Date of Hearing: April 17, 2008
Time of Hearing: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

¹ This bankruptcy case was closed on October 12, 2007.

² This bankruptcy case was closed on December 26, 2007.

1 This matter having come before the Court upon the supplemental objection (the
2 “Objection”) of the USACM Liquidating Trust (the “USACM Trust”) [DE 5927], filed on
3 March 4, 2008, to the termination premium claim under 29 U.S.C. § 1306(a)(7) included
4 in Amended Claim No. 791 (the “Termination Premium Claim”) filed by the Pension
5 Benefit Guaranty Corporation (the “PBGC”); the PBGC having filed a response in
6 opposition to the Objection on March 14, 2008 (the “Response”) [DE 5984]; the USACM
7 Trust having filed a reply in support of the Objection on March 25, 2008 (the “Reply”)
8 [DE 6049]; the PBGC having filed a sur-reply in opposition to the Objection on March 31,
9 2008 (the “Sur-reply”) [DE 6063]; the Objection having come before the Court for hearing
10 on April 17, 2008 (the “Hearing”); the Court having considered the Objection, the
11 Response, the Reply, the Sur-reply, the arguments of counsel at the Hearing and other
12 materials of which this Court may take judicial notice; and the Court being otherwise
13 sufficiently advised;

14 IT IS HEREBY ORDERED:

- 15 1. The Objection is sustained for the reasons set forth by this Court in its oral
16 ruling at the Hearing; and
 - 17 2. The Termination Premium Claim No. 10725-00791-2 is hereby disallowed
18 in its entirety.
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1 PREPARED AND SUBMITTED:

2 **LEWIS AND ROCA LLP**

3 By: /s/ RC (#0006593)

4 Susan M. Freeman

5 Rob Charles

6 John Hinderaker

7 -and -

8 **FOLEY & LARDNER LLP**

9 Edward J. Green

10 Geoffrey S. Goodman

11 *Attorneys for USACM Liquidating Trust*

12 APPROVED

13 **PENSION BENEFIT GUARANTY
CORPORATION**

14 By: 

15 James Eggeman Assistant Chief Counsel (*pro*
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20 **APPROVED**

21 **LISA POULIN, CHAPTER 11 TRUSTEE FOR
22 USA INVESTMENT PARTNERS, LLC**

23 By: /s/ Gregory Garman

24 Gregory Garman

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CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of approval under LR 9021.
- ☐ No parties appeared or filed written objections, and there is no trustee appointed in the case.
- ☐ No opposition was filed to the motion and no other party or counsel appeared at the hearing.
- ☒ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who have appeared at the hearing, and any trustee appointed in the case, and each has approved or disapproved the order, or failed to respond, as indicated below:

PENSION BENEFIT GUARANTY CORPORATION (Approved)
[Claimant]

LISA POULIN, CHAPTER 11 TRUSTEE FOR USA INVESTMENT PARTNERS, LLC
(Approved) [Interested Party]

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